IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.809 OF 2006

Raghavhji Ratanshi Chheda & anr. ...Appellants

vs.

Smt.Priti wd/o Dr.Manish Chheda ...Respondent

Mr.G.S.Godbole for the Appellants
Mr.V.P.Sawant for the Respondent.

CORAM: A.S.OKA,J.
DATE : APRIL 30,2007.

P.C.:

1. Heard learned Counsel for the parties. The Appeal remained pending for admission as the parties were making an effort to put an end to the dispute. However, the parties could not resolve the dispute.

2. The challenge in this Appeal from Order is to the ad-interim order dated 13th October 2006 passed by the learned Judge of the City Civil Court. The learned Judge by the said order directed that the suit premises more particularly marked as 'A' in Exh.C annexed to the plaint shall be kept locked till the filing of reply to the Notice of Motion taken out by the original Plaintiff i.e. the Respondent herein. Hearing of the Notice of Motion was expedited. The learned Judge also directed that the Registrar of the City Civil Court shall seal the suit premises in presence of both the Advocates by appointing any responsible officer of the said Court as the Court Commissioner.

3. In Civil Application No.1113 of 2006, this Court passed an ad-interim order dated 19th October 2006. This Court appointed the Court Receiver, High Court, Mumbai as the Receiver in respect of the suit premises. This Court directed that the Court Receiver shall not physically dispossess the Appellants but will permit the Appellants to use the suit premises as the agent of the Court Receiver subject to payment of royalty to be fixed by the Receiver in the usual course.

4. Notice of Motion is still pending though the same was expedited perhaps due to the pendency of this Appeal and due to time taken by the parties for settlement. No purpose will be served by keeping the Appeal pending in this Court as the Appeal is directed against an ad-interim order which was to operate till the filing of the reply to the Notice of Motion. The Trial Court will have to be directed to decide the Notice of Motion expeditiously. Till the time the Notice of Motion is decided, Ad-interim relief granted by this Court on 19th October 2006 will have to be continued. In the event, the Notice of Motion is not heard within stipulated time by the City Civil Court, it will be open for the parties to apply for variation of the ad-interim order.

5. All contentions which are raised by the parties in the Appeal as well as in the pending Civil Applications can be

urged before the Trial Court.

6. Hence, Appeal is disposed of by passing the following order :

i) The Trial Court is directed to decide the pending Notice of Motion as expeditiously as possible and preferably on or before 27th July 2007.

ii) Ad-interim relief granted by this Court on 19th October 2006 in Civil Application No.1113 of 2006 will continue to operate till the final disposal of Notice of Motion.

iii) It is made clear that all the contentions of the parties which are raised in this Appeal from Order as well as in the Civil Applications filed therein are expressly kept open.

iv) It will be open for the Appellants to file an Application for reduction of the royalty fixed by the Court Receiver. If such Application is filed, the Trial Court will decide the same in accordance with law.

v) Appeal is disposed of in above terms with no order as to costs.

JUDGE